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Before The
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Massachusetts Department of Telecommunications)
And Energy Petition for Delegation of Additional)
Authority to Implement Number)
Conservation Measures in Massachusetts)

CC Docket No. 96-98
NSD File No. L-00-169
DA 00-1982

SPRINT COMMENTS

Sprint Corporation, on behalf of its local, long distance, and wireless divisions (collectively, "Sprint") opposes the Massachusetts Department of Telecommunications and Energy's request for addition delegated authority to set a rationing plan for the 413 NPA.

The DTE has not demonstrated "extenuating and unique circumstances" in the 413 NPA justifying delegation of authority to order number rationing without an area code relief plan and relief date in place. The situation is much like that in other exhausting NPAs.

The Massachusetts DTE suggests that the industry somehow acted inappropriately in not adopting a rationing plan at this time. While NueStar has identified an exhaust date, it has not declared the 413 NPA in jeopardy. If NeuStar declares jeopardy, it will presumably issue its standard rationing plan. At that point, industry will have the opportunity to tailor an allocation plan to meet the specific needs of the 413 NPA.

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Far from dragging its feet, industry – not regulators – adopted needs-based assignment procedures in the Northeastern states. For example, in New York (516 & 914), New Jersey (973,732, & 201), and Massachusetts (508 &617), industry adopted assignment procedures requiring growth code applicants to submit six months of historical utilization and forecast data; a growth code will be then be assigned only if forecasted monthly demand is within 15% of average historically monthly utilization – or, if the applicant can adequately justify why it believes future demand may exceed 15% of recent assignment rates. Industry placed restrictions, too, on the assignment of initial codes, requiring applicants to demonstrate need – for example, that the service provider has an interconnection agreement and a bona fide request to provide service in the rate center for which it is seeking an initial code. Sprint PCS intends to propose to the industry that it adopt a similar needs-based assignment procedure in the 413 NPA in place of rationing by lottery, or alternatively one using a fill-rate. The DTE is invited to participate in this process.

Rationing of numbering resources by lottery is incompatible with the Commission's new numbering rules. The Commission has established new eligibility requirements for the assignment of both initial and growth codes/1,000s blocks "to ensure that carriers request and receive numbering resource only when and where needed."¹ The Commission has further determined that available number resources should be assigned on a "first-come, first-served basis":

We also clarify that once carriers meet the requirements set forth herein for initial and growth numbering resources, the NANPA shall continue to

¹ *Numbering Resource Optimization*, CC Docket No. 99-200, *Report and Order*, FCC 00-104 (March 31, 2000), *published in* 65 Fed. Reg. 37703 (June 16, 2000) at ¶ 88.

assign numbering resources on a first-come, first served basis, to those carriers that satisfy the necessary requirements.²

Given this new environment, there is no reason whatever to permit rationing — anywhere, anytime. Indeed, to permit continuation of rationing under the new rules will virtually guarantee that carriers with a documented need for numbers will not receive numbers when they need them — because at the time they document a need for numbers, they will receive a lottery ticket rather than the numbers they have demonstrated they need.

In the past, the Commission has stated that rationing should occur “only . . . when it is clear that an NPA will run out of NXX codes before implementation of a relief plan.”³ It condoned rationing because in the days when NXX codes were assigned through the “self certification” process, rationing was deemed to be an “equitable” way to allocate scarce resources.⁴ However, even with past rationing procedures, the Commission recognized the need to assign additional numbers outside the rationing process to carriers facing imminent exhaust:

This grant of authority empowers the California Commission to ensure that carriers in dire need of numbering resources can obtain the numbering resources necessary to continue to provide service to their prospective customers, if the rationing plan will not ensure that the carrier will have adequate and timely access to numbering resources.⁵

Whatever may have been the justification for rationing in the past, there is no justification for rationing in the future. The Commission has adopted new assignment

² *Id.* at ¶ 92.

³ *Pennsylvania Numbering Order*, 13 FCC Rcd 19001, 19025 ¶ 24 (1998).

⁴ *Id.* at 19026 ¶ 24.

rules to ensure that only those carriers in need of numbers receive them. Given the new “needs-based” rules, it can no longer be said that rationing is an equitable way to distribute numbering resources. To the contrary, rationing *via* lotteries is directly antithetical to the Commission’s determination that numbers should be assigned on a “first-come, first-served” basis to carriers in need, because numbering resources will be assigned by the luck of the draw rather than on a *verified* needs-based, “first-come, first served” basis.

Indeed, the only reason to maintain rationing is to permit states to do precisely what is expressly forbidden. The Commission has stated repeatedly that “state commissions may not use rationing as a substitute for area code relief,”⁶ but that is plainly what the DTE wants to do – it wants to extend the life of the 413 NPA by artificially limiting the demand for numbers. That is not a form of conservation. The better method is to adopt needs-based assignment procedures which conserves numbers by assigning them only to carriers that can demonstrate need, while ensuring that consumers are able to receive service from their carrier of choice.

⁵ *California Delegation Order*, 14 FCC Rcd 10322 at ¶ 33 (1998). *See also Sprint PCS Request for Emergency Relief in the 516 NPA*, NSD File No. 99-25, DA 99-505, 14 FCC Rcd 3972 (March 12, 1999).

⁶ *See, e.g., Wisconsin Delegation Order*, 15 FCC Rcd 1299 at ¶ 28 (1999), *citing Pennsylvania Numbering Order*, 13 FCC Rcd at 19027 ¶ 26.

Respectfully submitted,

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September 27, 2000

CERTIFICATE OF SERVICE

I, Virginia Daily, hereby certify that on this 27th day of September 2000, copies of the foregoing "Sprint Comments" were sent by first class mail, postage prepaid, to the attached service list.

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